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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
APPLE GATE, )  
 )  
Defendant. )  
\_\_\_\_\_ )

No. CR 06-0173 VRW  
**STIPULATION AND ~~PROPOSED~~  
ORDER LIMITING EVIDENCE AND  
ARGUMENT AS TO THE  
DEFENDANT'S INTENT OR ABILITY  
TO CARRY OUT THREATS**

In preparation for trial, plaintiff United States of America and defendant Apple Gate  
hereby stipulate as follows:

The parties agree that the government is not required to prove that the Defendant actually  
intended to carry out the threat charged in the indictment or any earlier threat against Judge  
LuNell Anderson. *See, e.g., United States v. Stewart*, 420 F.3d 1007, 1019 n. 9 (9<sup>th</sup> Cir. 2005).  
The parties thus further agree that evidence as to whether the defendant actually intended to or  
had the ability to carry out the threat charged in the indictment or any earlier threat against Judge  
LuNell Anderson should be excluded as irrelevant and confusing to the jury. By so stipulating,  
the Defendant does not agree that earlier threats against Judge LuNell Anderson are admissible.

SO STIPULATED:

1 DATED:

/S/  
ELIZABETH FALK  
Assistant Federal Public Defender

4 DATED:

/S/  
TRACIE L. BROWN  
Assistant United States Attorney

6 ~~[PROPOSED]~~ ORDER

8 PURSUANT TO STIPULATION, IT IS SO ORDERED.

10 DATED: June 9, 2006

11 VAUGHN Judge Vaughn R Walker  
12 Chief Judge, United States District Court

